



United States Attorney
Northern District of California

Ronald v. Dellums Federal Building
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December 5, 2007

The Honorable Wayne D. Brazil
United States Magistrate Judge
1301 Clay Street
Oakland, CA 94612

Re: United States v. Thiem Phan, CR07-0761 CW

Dear Honorable Judge Brazil:

Enclosed please find an information in the above matter. The parties request that this matter be placed on your calendar on December 14, 2007, at 10 a.m., for arraignment. The defendant is out of custody and does not need the assistance of an interpreter.

Very truly yours,

SCOTT N. SCHOOLS
United States Attorney

By: 
MAUREEN C. BESSETTE
Assistant U.S. Attorney

Enclosure
cc. Tam Nguyen, Esq.

1 SCOTT N. SCHOOLS (SC 9990)
2 United States Attorney

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COURT
CALIFORNIA

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

UNITED STATES OF AMERICA,
Plaintiff,
v.
THIEM VAN PHAN,
Defendant.

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No. CR CR07-0761
VIOLATIONS: 18 U.S.C. §§ 1341, 2 –
Mail Fraud, Aiding and Abetting
C/W

OAKLAND VENUE

INFORMATION

The United States Attorney charges:

I. BACKGROUND

At all times material to this Information,

1. From at least 1992, Amland Corp. (aka Amland and Amland Construction) ("Amland"), a California corporation, was a landscaping and construction company. From approximately January 2006 through the present, Amland was located at 1401 Felipe Avenue, San Jose, California. Prior to this, from approximately 2003 through approximately January 2006, the business office was located at 9926 Gibraltar Road, Oakland, California. In December 2000, Amland entered into contracts with the U.S. Department of Transportation Federal Highway Administration ("DOT FHWA"), and the State of California Department of Transportation ("Caltrans") to perform construction and landscaping work on federally funded highway construction projects in

1 the State of California.
2

3 2. From at least 2001, THIEM VAN PHAN ("PHAN") was an employee at
4 Amland responsible for the bookkeeping and payroll. In this position, PHAN generated
5 employee paychecks based on weekly time sheets.
6

7 3. The United States Department of Transportation, through the Federal Highway
8 Administration, funds highway construction projects throughout the United States. In
9 California, such federal funds are administered by Caltrans, which solicits and accept bids
10 from contractors. As a condition of such contracts, prime contractors and subcontractors,
11 such as Amland, agree to comply with federal and/or state requirements that apply to
12 projects paid for by federal funds. Among these requirements is that the contractor pay
13 its employees (1) on a weekly basis and (2) the prevailing federal wage rate. Contractors
14 accepting such public road construction contracts also agree to submit certified payroll
15 reports for review by Caltrans and to certify that the contractor has complied with federal
16 and/or state requirements regarding compensating its employees.
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18 4. From approximately December 2000 through September 2004, Amland entered
19 into five contracts with the DOT FHWA and Caltrans, to perform work on federal-aid
20 funded highway construction projects. Amland was the contractor on five contracts.
21 These Amland contracts each involved more than \$2,000, triggering application of 40
22 U.S.C. § 3142 (Rate of wages for laborers and mechanics).
23

24 COUNT ONE: (18 U.S.C. §§ 1341, 2 - Mail Fraud and Aiding and Abetting)

25 SCHEME TO DEFRAUD

26 5. Paragraphs 1 through 4 are incorporated herein by reference.
27

28 6. Beginning in approximately November 2001 and continuing through October
29 2006, in the Northern District of California, and elsewhere, the defendant,
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31 THIEM VAN PHAN,
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33 did knowingly devise and intend to devise a material scheme and artifice to defraud
34 Amland employees, to obtain money by means of material false and fraudulent pretenses,
35 representations, and promises, and by material omissions as follows.
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37 7. It was part of the scheme and artifice to defraud that defendant would and did
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1 submit false certified payroll reports and certified statements of compliance that
2 misrepresented to Caltrans the amount and frequency of payments made by Amland to its
3 employees. These certified payroll reports and certified statements of compliance
4 purported to show that Amland employees working on the Amland contracts were paid
5 once each week and received the federally mandated prevailing wage rate, when in fact
6 these employees were not paid each week and did not receive the prevailing wage rate
7 because defendant PHAN took certain paychecks meant for Amland employees and
8 cashed the checks for his own personal enrichment.

9 USE OF THE MAIL

10 8. On or about February 2, 2005, in the Northern District of California and
11 elsewhere, for the purpose of executing the aforementioned scheme and artifice to
12 defraud, and attempting to do so, the defendant,

13 THIEM VAN PHAN,

14 did knowingly cause to be placed in a post office and authorized depository for mail
15 matter to be sent and delivered by the Postal Service, a false certified statement of
16 compliance and a false payroll report, from Amland in San Jose, California to 21030
17 Redwood Road, Castro Valley, California, 94544, all in violation of Title 18, United
18 States Code, Sections 1341 and 2.

19 Dated:

20
21 SCOTT N. SCHOOLS
22 United States Attorney

23 
24 W. DOUGLAS SPRAGUE
25 Chief, Oakland

26 (Approved as to form:
27 
28 AUSA DESSETTE

